

**In the Environment Court  
Wellington Registry  
I Mua I Te Kōti Taiao O Aotearoa  
Te Whanganui-ā-Tara Rohe**

**ENV-2019-WLG-000123**

Under the Resource Management Act 1991  
And in the matter of an application under Section 274 of the Act

Between

**Wellington Water Limited**

Appellant

and

**Greater Wellington Regional Council**

Respondent

---

**Notice of CentrePort Limited and CentrePort Properties  
Limited's wish to be party to proceedings**

**9 October 2019**

---

**BELL GULLY**

BARRISTERS AND SOLICITORS  
A J L BEATSON / L M LINCOLN  
WELLINGTON LEVEL 21, ANZ CENTRE, 171 FEATHERSTON STREET  
PO BOX 1291, WELLINGTON 6140, DX SX11164, NEW ZEALAND  
TEL 64 4 915 6800 FAX 64 4 915 6810

**To:** The Registrar  
Environment Court  
Wellington

1. CentrePort Limited and CentrePort Properties Limited (**CentrePort**) wish to be a party to the following proceedings:
  - (a) *Wellington Water Limited v Greater Wellington Regional Council*  
– ENV-2019-WLG-000123.
2. CentrePort made a submission and a further submission about the subject matter of the proceedings and has an interest in the proceedings that is greater than the interest that the general public has as the owner and operator of the Wellington Port and lifeline facility.
3. CentrePort is not a trade competitor for the purposes of section 308C of the Resource Management Act 1991 (the **RMA**).
4. CentrePort is interested in all of the proceedings.
5. Without limiting the above, CentrePort is interested in the particular issues outlined in the table attached as Appendix A to this notice. CentrePort supports or opposes the relief sought in respect of each issue for the reasons set out in the attached table.
6. CentrePort agrees to participate in mediation or other alternative dispute resolution of the proceedings.



---

A J L Beatson / L M Lincoln  
Counsel for CentrePort Limited and CentrePort Properties Limited

Dated 9 October 2019

**Address for service:**

CentrePort Limited and CentrePort Properties Limited  
C/- Bell Gully  
171 Featherston Street  
PO Box 1291  
Wellington 6140  
Attention: Laura Lincoln

Telephone: (04) 915 6800  
Facsimile: (04) 915 6810  
Email: [andrew.beatson@bellgully.com](mailto:andrew.beatson@bellgully.com) / [laura.lincoln@bellgully.com](mailto:laura.lincoln@bellgully.com)

***Advice***

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.

## APPENDIX A

Issue / Provision	Summary of relief sought by the Appellant	Support / Oppose	General reasons for support / opposition
Definition of "Reverse Sensitivity"	Amend the definition so that it includes maintenance and upgrade of, and consequent use of, existing lawfully established regionally significant infrastructure.	Support	CentrePort supports amendments to the definition of 'reverse sensitivity' that better provide for regionally significant infrastructure.
Objective O12	Amend Objective O12 so that it provides for the benefits of regionally significant infrastructure.	Support	It is appropriate to recognise and provide for the development of regionally significant infrastructure.
Objective O13	Amend Objective O13 so that it does not only apply to infrastructure in the coastal marine area and beds of rivers or lakes, and so that it protects WWL's infrastructure from the effects of discharges to air by others, or water takes by others.	Support	The requested deletion of the words 'in the coastal marine area and beds of rivers and lakes' in Objective O13 appropriately recognises that regionally significant infrastructure should be protected beyond the coastal marine area and the beds of rivers and lakes.
Policy P12	Amend Policy P12 to identify what the benefits of three waters infrastructure are, and recognise those benefits in a meaningful way.	Support in Part	CentrePort has an interest in Policy P12 and any amendments that seek to better provide for regionally significant infrastructure.
Policy P13	Amend Policy P13 to make better provision for protection of regionally significant	Support	While CentrePort is comfortable with the decisions version of Policy P13, it supports additional amendments to make

	<p>infrastructure relative to mana whenua values, recreational values, ecological values, historic heritage values and natural character values so that, in circumstances where incompatibility arises, the objective and policy provisions do not predetermine which values take priority.</p>		<p>better provision for regionally significant infrastructure in sites of significance, consistent with CentrePort's submissions in relation to the Commercial Port Area and the Kaiwharawhara Stream and Estuary.</p>
Policy P14	<p>Amend Policy P14 to make better provision for protection of regionally significant infrastructure relative to mana whenua values, recreational values, ecological values, historic heritage values and natural character values so that, in circumstances where incompatibility arises, the objective and policy provisions do not predetermine which values take priority.</p>	Support	<p>While CentrePort is comfortable with the decisions version of Policy P14, it supports additional amendments to make better provision for regionally significant infrastructure in sites of significance, consistent with CentrePort's submissions in relation to the Commercial Port Area and the Kaiwharawhara Stream and Estuary.</p>
Policy P40	<p>Amend Policy P40 so that the standard required is clear and does not require reinstatement of ecosystems and habitats to pristine or pre-development conditions and to reflect that</p>	Support - to the extent the relief sought is consistent with the relief sought in CentrePort's appeal.	<p>Policy P40 should recognise that restoration is not always possible, and that use and development may be appropriate for some activities in sites of significance. The relief sought is generally consistent with the relief sought</p>

	ecosystem and habitat values will vary, restoration will not be possible in all cases, and allowance is made for the ongoing operation, maintenance and upgrade of regionally significant infrastructure.		in CentrePort's appeal.
Policy P41	Amend Policy P41 in line with the proposed amendments to Policy P40 and Schedule F1.	Support	Policy P41 should recognise that use and development may be appropriate for some activities in sites of significance. The relief sought is generally consistent with the relief sought in CentrePort's appeal.
Policy P41A	Amend Policy P41A to provide for WWL's activities to maintain and upgrade regionally significant infrastructure, including by substitution of the word "avoid".	Support	CentrePort supports the intent of Policy P41A but is also concerned about the use of the term avoid. There could be a situation where there may be more than minor effects of an appropriate development that could be remedied, mitigated or offset but not completely avoided.
Policy P73	Amend Policy P73 in conjunction with the definition of "good management practice", to ensure it refers to a clear and workable standard for engineering practice and asset management; and to ensure it is clear what aspects of stormwater discharge are to be managed in accordance with	Support	CentrePort supports amendments to make the policy more achievable in practice.

	the standard. Amend Policy P73 to change the requirement from 'minimising adverse effects to the smallest amount reasonably practicable', to something more meaningful and achievable.		
Policy P78	Amend Policy P78 so that it is consistent with Rule R52, and allocates responsibilities for minimisation to the relevant port, airport or state highway operators.	Neither Support nor Oppose	CentrePort is interested in the interface between private and public networks.
Rule R52	Amend Rule R52 so that there is no duplication between the obligations for a port, airport or state highway operator and the obligations for the operator of the local authority stormwater network, the obligations for management or minimisation of adverse effects sit with the relevant port, airport or state highway operator; and/or the matters for discretion include reference to compliance with current local authority quality outcomes.	Neither Support nor Oppose	CentrePort is interested in the interface between private and public networks.
Objective O29	Amend Objective O29 so that it does not require restoration of fish passage, or does not require restoration of fish	Support	CentrePort supports the intent of the objective but agrees the wording could be improved, especially to provide for the operation,

	<p>passage in relation to regionally significant infrastructure, or states an alternative outcome that is more realistic in an urban setting, or more appropriate having regard to the benefits of regionally significant infrastructure and the current state of fish passage.</p>		<p>maintenance, development and upgrade of regionally significant infrastructure. As currently drafted it could be read that fish passage of indigenous fish and koura in all existing situations does not exist. There may also be circumstances where restoration cannot be achieved and that should be recognised.</p>
Policy P31	<p>Amend Policy P31, including to delete references to restoration.</p>	Support	<p>CentrePort agrees that references to restoration should be deleted, as there is no guidance as to how this should be interpreted.</p>
Policy P34	<p>Amend Policy P34 so that it does not require avoidance and so that it adequately reflects that passage is already impeded in places and not all habitat is of equal significance.</p>	Support	<p>CentrePort agrees that the use of the word “avoid” in the policy is problematic as it may not always be possible to avoid effects, especially where there are functional needs and operational requirements. CentrePort is concerned that “avoid” is the only option available to a proponent of an otherwise appropriate development, as it may be possible for other options, or alternative methods to be contemplated that would remedy or mitigate adverse effects.</p>
Policy P138	<p>Amend Policy P138 to clarify the meaning of “practicable” in (e) and/or to ensure that appropriate provision is made for structural works</p>	Support	<p>CentrePort supports further amendments to this policy to better provide for regionally significant infrastructure.</p>

	necessary to maintain or upgrade regionally significant infrastructure, such as by exempting such infrastructure from the “avoidance” requirement, or by allowing that proposed works for such infrastructure may proceed even where there are practicable alternatives, provided the proposal is the most practicable.		
Rule R154	Amend Rule R154 to provide for temporary damming and diversion of coastal water associated with temporary structures, subject to reasonable conditions.	Support	CentrePort shares the Appellant’s concern that the rule does not provide for the temporary damming or diversion that such structures may cause, which can be necessary to create a dry work environment for working on regionally significant infrastructure.
Definition of “Hard Engineering”	Amend the definition to recognise that such engineering is commonly used to protect infrastructure, such as by adding “or infrastructure” after the phrase “to prevent erosion of the land”.	Support	The proposed amendment is appropriate as hard hazard engineering is commonly used to protect infrastructure that is functionally required to be located at the interface between land and water.
Definition of “High Risk”	Amend the definition so that it is based on an appropriate assessment of actual hazard, and only applied to those areas that are in fact at high risk; and/or amendments are made to the	Support	CentrePort agrees that high risk areas should be identified based on an appropriate assessment of actual risk.

	corresponding objectives and policies to lessen the requirement for WWL's infrastructure to "avoid" high risk areas.		
Policy P27	Amend Policy P27 so that it does not inappropriately constrain the presence, operation, maintenance and upgrade of three waters infrastructure, much of which is located in the CMA or the beds of lakes and rivers. In particular, paragraph (b) is amended to reflect that in some instances it is not possible to reduce the hazard risk to a "low" risk.	Support - to the extent the relief sought is consistent with the relief sought in CentrePort's appeal.	CentrePort has sought amendments to this policy to provide for appropriate use and development, including in the Lambton Harbour Area, including by amending paragraph (b) of the policy to reflect that in some instances it is not possible to reduce the hazard risk to a "low" risk.
Policy P28	Amend Policy P28 so that hard hazard engineering mitigation and protection methods are not required to be avoided in respect of regionally significant infrastructure.	Support - to the extent the relief sought is consistent with the relief sought in CentrePort's appeal.	As recognised by Policy 27 of the NZCPS, hard engineering solutions may be the only practicable method of hazard mitigation and protection for existing and future nationally and regionally significant infrastructure. CentrePort supports amendments to the Policy to the extent they are consistent with the relief sought in CentrePort's appeal.
Policy P24	Amend Policy P24 to recognise that regionally significant infrastructure may need to locate in areas of natural character, and to	Support	Policy P24 has the potential to frustrate appropriate use and development, including that associated with regionally significant infrastructure.

	make allowance for any significant adverse effects of such activities to be remedied or mitigated where avoidance is not the best practicable option.		CentrePort supports the use of a “avoid, remedy, mitigate” hierarchy in the PNRP.
--	---	--	---